IN THE HIGH COURT OF JUDICIATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.673 OF 1998

The Commissioner of Income-tax,
Bombay City III, Bombay .. Applicant.

V/s.

M/s.Chika Ltd. .. Respondent.

Mr.Parag Vyas with Mr.Ashok Kotangale & Mr.A.S. Rao for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.
DATED : 18TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court reading as under :-

> 1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of section 40(c) are applicable in respect of the salary and perquisites of an employee-director and not the provisions of Section S.40A(5) ?
>
> 2. Whether on the facts and in the circumstances of the case and in view of the provisions of S.43(1), the Tribunal was right in law in holding that the subsidy received by the assessee from the Government of Kerala should not be deducted from the cost of the assets for the purpose of granting of depreciation allowance ?

2. So far as Question No.1 is concerned, the learned counsel for the applicant-revenue fairly submits that the above question has already been answered by the Division Bench of this Court in the

case of CIT V/s. Hico Products P. Ltd. (No.1) [(1993) 201 ITR 567 (Bom)] in favour of the assessee and against the revenue.

3. As regards Question No.1 is concerned, the learned counsel for the applicant-revenue fairly submits that the issue sought to be raised is already answered by the Division Bench of this Court in the case of CIT V/s. P.J. Chemicals Ltd. [(1999) 236 ITR 780 (Bom)] in favour of the assessee and against the revenue.

4. In this view of the matter, both the questions stand answered in affirmative for the reasons stated in the case cited supra.

5. Reference, accordingly stands disposed of with no order as to costs.

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